

REMARKS

The present amendment is submitted in conjunction with a Request for Continued Examination (RCE) and in response to the final Office Action dated May 14, 2007, which set a three-month period for response. Filed herewith is Request for a One-month Extension of Time, making this amendment due by September 14, 2007.

Claims 15-29 are pending in this application.

In the final Office Action, claims 15, 16, 18-20, 22, 23, 24, 25, 27, and 28 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,766,962 to Edling. Claims 15-17 and 19-28 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,386,667 to Hausslein et al.

In this amendment, claim 15 has been amended to more clearly define the invention over the newly cited references by defining that the "stop means limits rotation of the guard in the event of shattering of an insertion tool in an operation mode of the power tool".

New claim 29 has been added, which combines the features of claim 15 and the attachment means (28) (see Fig. 5 and page 6, lines 3-8 of the specification). In addition, features of a force closure between the guard (16) and the collar (24) due to the attachment means (28) have been included in new claim 29, as shown in Fig. 5 and disclosed on page 2, lines 6-9 as well as page 6, lines 6-8. New claim 29 also includes the features of a form closure, which acts in the case of damage of the insertion tool (see specification, page 2, lines

8-9 and page 2, line 28 to page 3, line 6; page 5, lines 15-18, and page 5, line 27 through page 6, line 2).

Claim 25 was amended to correct a typographical error.

The Applicants respectfully submit that neither of the newly cited references discloses all of the features of amended and new independent claims.

The patent to Edling discloses a portable power tool for operating a wheel type grinding or cutting working implement, with a safety guard (16) which is adjustably supported on a guide flange (15) and with an arresting device (18) for positive engagement in lock openings (20) of the safety guard (16) (see Edling, Fig. 1 and the abstract). During an operation mode the safety guard (16) is locked in a fixed position due to an engagement of a locking bolt (19) of the arresting device (18) in a lock opening (20) of the safety guard (16) (see Edling, Fig. 3a and column 2, lines 16 to 22).

In contrast, the patent application discloses a system composed of a guard (16) and a power tool, with a rotation-prevention means (20) which is provided with a blocking means (32, 40) on a guard side and with a corresponding stop means (34, 42) on a power tool side and with an attachment means (28) for clamping the guard (16) to the power tool, wherein the stop means (34, 42) limits rotation of the guard (16) during a case of a shattering of an insertion tool (14) in an operation mode of the power tool.

Therefore, the present application discloses and claims a system which provides a safety mechanism in case of an accidental shattering or breaking of an insertion tool during an operation mode of the power tool. In case of high

forces, which are acting on the guard (16), a force closure, which secures the guard (16) on a collar (24) of the power tool by means of the attachment means (28), disengages and a rotation of the guard (16) is intended, wherein the rotation is limited by an interaction of the blocking means (stop cam, blocking lug) (32, 40) and the stop means (limiting groove, stop) (34, 42) (see specification, page 5, line 26 to page 6, line 2).

Therefore, this safety mechanism provides a guard (16), which is intended to perform a forced rotation in case of an accidental shattering of the insertion tool. Moreover, due to the design of the stop means (34, 42) a convenient and continuously variable adjustment of the guard (16) on the power tool is provided. Additionally, the construction ensures a proper handling without possible operating errors.

Edling fails to disclose ***rotation of the safety guard (16) during an operation of the power tool***. Rather, Edling discloses a locking mechanism to totally prevent rotation of the safety guard (16) during operation (see Edling, Fig. 3a and column 2, lines 16 to 22). Moreover, ***no safety mechanism, which intends a forced rotation of the safety guard (16)*** in case of an accidental shattering of an insertion tool, is taught. In addition, ***no clamping of the safety guard (16) to the power tool by means of an attachment means*** is disclosed.

Based on these differences, claim 15 as amended is not anticipated by the Edling reference. The Applicants submit further that Edling cannot be an appropriate reference either under, MPEP section 2131, which indicates that to

anticipate a claim a reference must teach every element of the claim in as complete detail as is contained in Applicant's claim, or under MPEP section 2143.03, since not all of Applicant's claim limitations are taught or suggested.

In addition, no motivation can be found to integrate such a safety mechanism, which allows rotation of the safety guard (16) during an operation mode. Rather, it would be contradictory to the ideas of the Edling reference to integrate the possibility of rotation during operation, because a rotation of the safety guard (16) is not taught. Instead, an adjustment of the safety guard (16) is intended in a third position of the locking bolt (19), namely, in case of totally retraction of the locking bolt (19) out of the openings (20) of the safety guard (16) and dead end holes (21) in a balancing device (12), respectively (see Edling, Fig. 3c and column 2, lines 30 to 33).

Therefore, amended claim 15 also is not obvious over the Edling reference.

The cited reference to Hausslein discloses a portable machine tool with a clamping neck (151), in which a protective hood' (10) is mounted on the clamping neck (151). After insertion of radial projections (18) via an axial groove (22) into an annular groove (19), the protective hood (10) is fixed to the clamping neck (151). The protective hood (10) is locked in a fixed position during an operation mode by means of an engagement of a locking nose (29) and a catch nose (30) of an actable locking device (23) with an assigned recess (32) and a catch depression (33), respectively, of the protective

hood (10) (see Hausslein, Figs. 2 and 3 and column 3, line 17 to column 4, line 27).

Hausslein does not disclose any rotation of the protection hood (10) during an operation of the portable machine tool. Rather, this reference discloses a locking mechanism which totally prevents rotation of the protection hood (10) by determining defined positions during an operation mode (see Hausslein et al, column 3, lines 45 to 55). In addition, no safety mechanism, which causes a forced rotation of the protection hood (10) in case of an accidental shattering of an insertion tool, is taught. Moreover, no clamping of the protective hood (10) to the portable machine tool by means of an attachment means is intended. Based on these differences, claim 15 also is not anticipated by Hausslein.

Like the Edling reference, Hausslein discloses no motivation to integrate a safety mechanism which intends rotation of the protection hood (10) during an operation of the portable machine tool. Instead, rotation of the protective hood (10) is only performed during a position adjustment of the protective hood (10) when an actuating key (31) is pressed and forces the locking nose (29) and the respective recess (32), respectively, to disengage (see Hausslein et al, Figs. 2 and 4 as well as column 4 lines 45 to 55). As a result, amended claim 15 can be considered as being non-obvious over the Hausslein reference.

With regard to new claim 29, Edling shows a power tool with a safety guard (16), wherein the safety guard (16) is locked to a guide flange (15) of the

power tool by a form closure due to an engagement of a locking bolt (19) of an arresting device (18) in a lock opening (20) of the safety guard (16) (see Edling, Fig. 3a and column 2, lines 16 to 22).

In contrast, the present application discloses and claims in new claim 29 a system composed of a guard (16) and a power tool, with a rotation-prevention means (20) which is provided with a blocking means (32, 40) on a guard side and with a corresponding stop means (34, 42) on a power tool side and with an attachment means (28) for clamping the guard (16) to the power tool, ***wherein the guard (16) is attached in a normal operation mode to a collar (24) by a force closure and the guard (16) is attached in a case of a shattering of the insertion tool (14) to the collar (24) by a form closure.***

Therefore, an adjustment of the guard (16) in a normal operation mode is different from an adjustment of the guard (16) during an emergency situation, namely, the shattering of the insertion tool (see specification, page 5, line 29 to page 6, line 2). Because of this, a safety mechanism acts independently from the normal working conditions of the power tool. As a result, a high safety standard could be achieved.

Edling fails to disclose any force closure of the safety guard (16) during a normal, operation mode of the power tool. Rather, in the case of a normal operation mode, Edling discloses a form closure by engagement of the locking bolt (19) in the lock opening (20) (see Edling, Fig. 3a and column 2, lines 16 to 22). Therefore, claim 29 also is not anticipated by the Edling reference.

In addition, no motivation can be found to attach the safety guard (16) by means of a force closure to the guide flange (15) of the power tool. Rather, a high constructive effort would be necessary to integrate a device which attaches the safety guard (16) by means of a force closure. Therefore, new claim 29 also is not obvious over the Edling reference.

Haussslein discloses a portable machine tool with a protective hood (10), wherein the protective hood is attached to a clamping neck (151) due to a form closure between a locking nose (29) of an actable locking device (23) and an assigned recess (32) of the protective hood (10) (see Haussslein, Figs. 2 and 3 and column 3, line 17 to column 4, line 27).

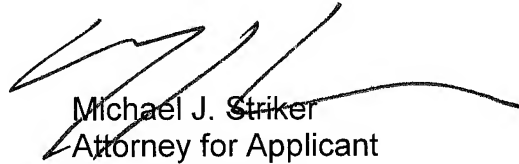
Haussslein does not disclose a force closure of the protective hood (10) during normal operation mode of the power tool. Instead, it discloses a form closure by engagement of a locking nose (29) and an assigned recess (32) in case of a normal operation mode (see Haussslein, column 3, lines 45 to 55). Based on these distinctions, new claim 29 also is not anticipated by the Haussslein reference.

Also, no motivation or suggestion is provided in Haussslein to attach the protective hood (10) by means of a force closure to the clamping neck (151) of the portable machine tool. Therefore, new claim 29 also is patentable over the Haussslein reference.

In light of the foregoing amendments and arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to resolve any issues in order to expedite placement of the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', is written over the printed name and title.

Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700